

HR Weekly Podcast  
August 8, 2008

Today is August 8, 2008, and welcome to the HR Weekly Podcast from the State Office of Human Resources. Today's topic concerns a recent United States Supreme Court decision which places the burden of proof on employers to show an employment decision was based on factors other than age.

In Meacham v. Knolls Atomic Power Laboratory, the Supreme Court held that an employer that wants to defend an age discrimination claim by asserting that the employment decision was based on reasonable factors other than age has the obligation to prove this assertion to the judge or jury hearing the case. Employment law experts were not surprised by this ruling.

The federal government uses private companies to help maintain the United States fleet of nuclear-powered warships. The United States Navy and the Department of Energy awarded contracts to Knolls Atomic Power Laboratory to design prototype naval nuclear reactors and train personnel to run them. With the end of the Cold War, the demand for nuclear reactors decreased and Knolls was ordered to reduce its workforce. While about 100 of its employees elected to participate in a buyout offer, Knolls still needed to cut about 30 employees. To determine those for layoff, Knolls required its managers to score their staff on three scales: performance, flexibility, and critical skills. In the company's involuntary reduction in force, 30 out of 31 salaried employees who were laid off were at least 40 years old.

Clifford Meacham was one of those employees laid off. A group of the employees affected by the layoff, including Meacham, claimed that the factors used by Knolls to determine who would be laid off had a disparate impact on older workers. They filed suit alleging violations under the Age Discrimination in Employment Act, or ADEA. A provision of the ADEA creates an exemption for employer actions otherwise prohibited by the ADEA, but based on reasonable factors other than age. After moving through the legal process, the Second Circuit Court of Appeals dismissed the case and found that the burden was on the employees, and not Knolls, to show that the employment decision was based on factors other than age. The employees appealed this ruling to the Supreme Court.

Recognizing that actions that might otherwise violate the ADEA are not actionable if the differentiation is based on reasonable factors other than age, the Supreme Court found that defense to be an affirmative defense. The Supreme Court concluded that the burden is on the employer both to produce evidence that the employment decision was based on reasonable factors other than age and to persuade the judge or jury on that point. Thus, the case was sent back to the Second Circuit to determine whether Knolls met this obligation.

If this expected result from the Supreme Court had, instead, been to uphold the Second Circuit, it would have been significantly more difficult for employees to bring claims under the ADEA. With the burden now clearly on employers to prove that their employment decisions were based on reasonable factors other than age, maintaining accurate documentation of the decision-making process will be critical.

If you have questions about this topic, please contact your HR consultant at 803-737-0900.

Thank you.